IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 931 of 2001

with

CIVIL REVISION APPLICATION No 932 of 2001

with

CIVIL REVISION APPLICATION No 967 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MODI BACHUBHAI SAKALCHAND

Versus

JASHVANTLAL MANILAL

Appearance:

PARTY-IN-PERSON for Petitioner

MR DP KINARIWALA for Respondents

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 27/02/2002

COMMON ORAL JUDGEMENT

1. Since the facts are similar in these three revision applications except for dates and the number of suits, they are heard together and are being disposed of by this common judgment.

2. The petitioner is the decree holder in each case. He filed Darkhast for execution of the decree in the Small Causes Court, Ahmedabad in 1983. However, before that, the opponents had filed suits in 1980 and 1981 in the City Civil Court. They also applied to the City Civil Court to grant stay of the execution of the decree. The City Civil Court kept the application for reply and hearing on 31st March, 1986 and pending the hearing of the application, ordered further proceedings in the Darkhast to be stayed. Nothing happened thereafter. However in 2001, the petitioner made an application to the Executing Court stating that there was no stay after 15th April, 1986 and prayed that possession warrant may be issued immediately. The opponents filed a reply opposing the said application.

3. The learned Judge, Small Causes Court, after hearing both the parties, came to the conclusion that the City Civil Court had stayed further proceedings in the Darkhast and he accepted the explanation of the opponents as to how the application for extension was made by mistake when, in fact, the earlier stay was granted till further hearing. He also observed that the suits in the City Civil Court were kept for final hearing. He, therefore, dismissed the application filed by the petitioner.

4. The petitioner who appears as party-in-person has contended that the stay was extended up to 14th April, 1986 on the application made by the opponents on 31st March, 1986 and thereafter there was no stay. However, the learned Judge has referred to both the orders and has come to the conclusion that, by previous order, further proceedings were stayed till final hearing. In the circumstances, it cannot be said that the court has committed any jurisdictional error or has acted illegally or with material irregularity in exercise of its jurisdiction. There is, therefore, no warrant for interference in Revision. The revision applications are, therefore, dismissed. Rule discharged.

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